

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

September 22, 2011 Meeting
Agenda Item 4

SUBJECT: Alternative Setback Determination - (PA2011-149)
1400 East Ocean Front
▪ Staff Approval No. SA2011-019

APPLICANT: Chris Brigandi

PLANNER: Benjamin M. Zdeba, Planning Technician
(949) 644-3253, bzdeba@newportbeachca.gov

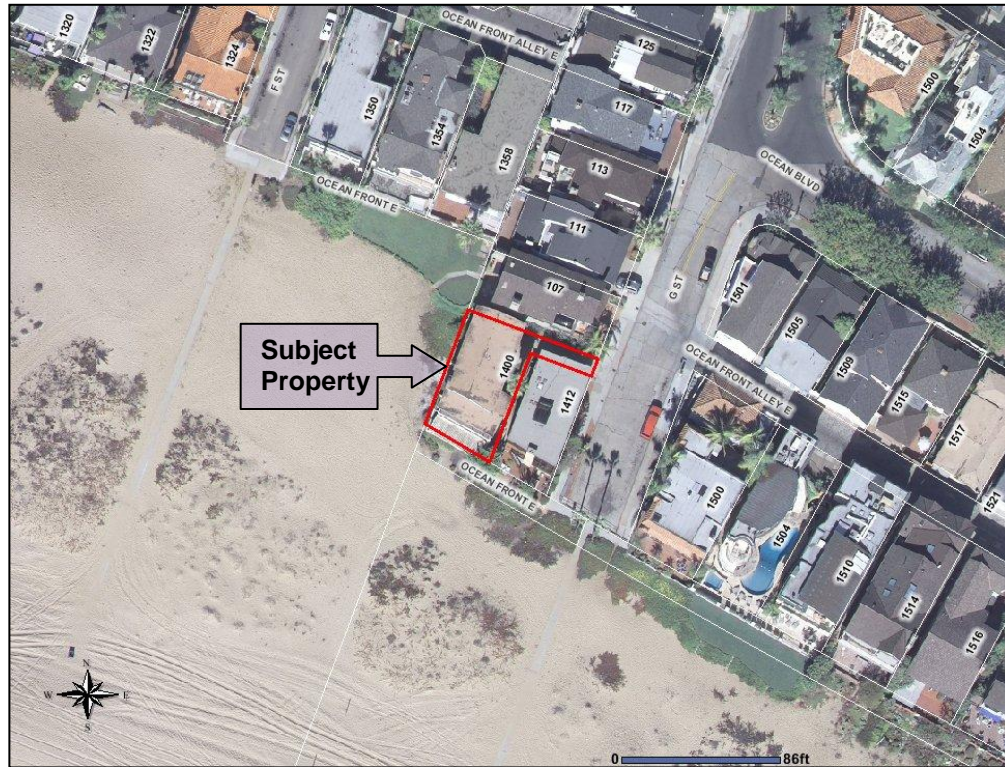
PROJECT SUMMARY

The applicant is requesting an alternative setback determination for property located at 1400 East Ocean Front to accommodate redevelopment of the site. The applicant is requesting that the following setbacks be established:

- Front (Along East Ocean Front) – 10 feet
- Sides – 3 feet
- Rear (Opposite East Ocean Front) – 3 feet

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Approve Alternative Setback No. SA2011-019 with the attached Alternative Setback Determination letter (Attachment No. PC 1).

VICINITY MAP**GENERAL PLAN****ZONING**

LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	RS-D (Single-Unit Residential Detached)	R-1 (Single-Unit Residential)	Single-Unit Dwelling
NORTH	RS-D	R-1	Single-Unit Dwelling
SOUTH	PR (Parks and Recreation)	PR (Parks and Recreation)	Undeveloped Street Right-of-way
EAST	RS-D	R-1	Single-Unit Dwelling
WEST	PR	PR	Public Beach

INTRODUCTION

Project Setting

The approximately 3,125-square-foot property is a flag lot¹ located near the intersection of 'G' Street and East Ocean Front. The property is currently developed with a 2,586-square-foot single-unit dwelling which is legal nonconforming since it encroaches into the required front, side, and rear setback areas (Attachment No. PC 2). The site is approximately 40.61 feet wide at the southern end and 75 feet wide at the northern end which includes the strip of land that provides access to and from 'G' Street. The topography of the site is relatively flat and slopes slightly downward towards the beach. The site abuts the public beach along East Ocean Front and the western property line.

Project Description

Pursuant to Section 20.30.110 C (Setback Regulations and Exceptions – Alternative setback area location) of the Zoning Code, the Community Development Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties in cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity. Strict application of the default setback regulations for an R-1 (Single-Unit Residential) property to the subject property results in a floor area limit lower than other properties nearby. The Community Development Director has referred this application to the Planning Commission for review and action, given the recent discussions on a similar request.



Exhibit 1, Required Setbacks and Buildable Area



Exhibit 2, Proposed Setbacks and Buildable Area

¹ A "flag lot" is defined by Chapter 20.70 (Definitions) of the Zoning Code as a lot not meeting minimum lot frontage requirements and where access to the private or public street is provided by a narrow private access way that is between abutting lots and that is owned in fee.

The setbacks required by the Zoning Code are 20 feet on the front along East Ocean Front, 3 feet on the sides, and 10 feet in the rear opposite of East Ocean Front. The resulting buildable area² of the lot is 1,328 square feet. The requested setbacks are 10 feet in the front along East Ocean Front, 3 feet on the sides, and 3 feet in the rear opposite of East Ocean Front resulting in a buildable area of 1,977 square feet.

Background

The subject property and surrounding area was originally subdivided in 1923. The original tract map depicts the property with an orientation towards East Ocean Front and access intended to be provided from East Ocean Front (Attachment No. PC 3). Since East Ocean Front was never improved for vehicular access, it appears that the property was resubdivided into a flag lot on January 26, 1956 to include a vehicular access easement from 'G' Street (Attachment No. PC 4). Variance Number VA915 was granted to the neighboring property located at 1412 East Ocean Front to establish the setbacks as 10 feet along East Ocean Front, 3 feet on each side, and 3 feet in the rear along the vehicular access easement for the subject property. The staff report for Variance No. VA915 indicates that the setbacks on the subject property (1400 East Ocean Front) are the same as this request of 10-foot front, 3-foot sides, and 3-foot rear (Attachment No. PC 5). Although the variance references the subject property and the existing building appears to be built to the setbacks referenced, no previous discretionary approvals could be found for 1400 East Ocean Front.

DISCUSSION

Analysis

To determine whether the proposed setbacks are appropriate, staff analyzed: 1) the compatibility of the proposed setbacks with the required setbacks on neighboring lots; and 2) the resulting true floor area ratio (maximum building square footage allowed divided by lot size) to ensure that the proposed setbacks do not result in additional floor area as compared with neighboring lots with typical lot configurations.

Setback Compatibility

Staff believes the proposed setbacks are compatible with those of the surrounding lots since all lots on East Ocean Front, both immediately east and west of the subject lot, are required to maintain a 10-foot front setback. Additionally, the lot width³ is 40 feet, so the side setbacks comply with the Zoning Code 3-foot standard for lots 40 feet wide or less. The rear portion of the lot is adjacent to the 3-foot side setback of the single-unit

² "Buildable area" is defined by Chapter 20.70 (Definitions) of the Zoning Code as the area of a development site, excluding the minimum front, side, and rear setback areas as applied to residential properties only.

³ "Lot width" is defined by Chapter 20.70 (Definitions) of the Zoning Code as the horizontal distance between the side lot lines, measured at right angles to the line that defines the lot depth at a point midway between the front and rear lot lines.

dwelling located at 107 'G' Street. The proposed 3-foot rear setback would be consistent with side yard separation as well as the existing development.

FAR Comparison

Due to varying lot sizes and setback areas, staff has employed a true floor area ratio (FAR) method by which the total building square footage allowed on the site is divided by the total site area. This method allows for an equitable comparison of floor area to lot area. The proposed setbacks result in a FAR of 1.25 for the subject lot. To determine whether this is consistent with the FARs of neighboring lots, staff compared the 1.25 FAR with the FAR of 1412 and 1504 East Ocean Front, 1505 Ocean Boulevard, and 107 'G' Street, which represent typical lot configurations of neighboring lots in the area.

Table 1, FAR Comparison

Property Address	Lot Size (SF)	Buildable Area (SF)	Max Floor Area (SF)	Floor Area Ratio
1400 E Ocean Front	3,154	1,977	3,954	1.25
<i>Requested Setbacks: 10' F, 3' Ss, 3' R</i>				
1412 E Ocean Front	2,341	1,591	3,182	1.36
1504 E Ocean Front	3,800	2,893	5,786	1.52
1505 Ocean Blvd	2,450	1,782	3,564	1.45
107 'G' St	2,625	1,595	3,190	1.2



Summary

As illustrated in the analysis table above, staff believes the setbacks as proposed allow the subject property to maintain setbacks that are compatible with the nearby lots and also results in a FAR of 1.25, which is consistent with the FARs of other lots in area.

Alternatives

Should the Planning Commission find the alternative setback determination as requested to be unreasonable, the Planning Commission should either prescribe more appropriate setbacks for the property or determine the property should be subject to the default setback regulations for residential properties within the R-1 (Single-Unit Residential) Zoning District.

Environmental Review

The project is categorically exempt under Section 15301, of the California Environmental Quality Act (CEQA) Guidelines - Class 1 (Existing Facilities). The alternative setback determination does not constitute a major change which would require environmental review.

Public Notice

Although not required by the Municipal Code, notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property (excluding roads and waterways) and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. The item also appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:



Benjamin Zdeba, Planning Technician



Gregg Ramirez, Acting Planning Manager

ATTACHMENTS

- PC 1 Draft Alternative Setback Determination Letter
- PC 2 Site Survey
- PC 3 Tract Map No. 518
- PC 4 Resubdivision No. 25
- PC 5 Portions of Variance No. VA915

Attachment No. PC 1

Draft Alternative Setback Determination
Letter



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
3300 Newport Boulevard, Building C, Newport Beach, CA 92663
(949) 644-3200 Fax: (949) 644-3229
www.newportbeachca.gov

DETERMINATION OF ALTERNATIVE SETBACK AREA LOCATIONS

SA2011-019 (PA2011-149)

Date: September 22, 2011

Site address: 1400 East Ocean Front

Section 20.30.110 C (Setback Regulations and Exceptions – Alternative setback area location):

In cases where the orientation of an existing lot and the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity, the [Community Development] Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties. The reorientation of setback areas is not applicable to the bluff overlay district.

In this case the Community Development Director elected to refer this request to the Planning Commission which established the following alternative setbacks:

Yard	Setback	Description
Front	10'	East Ocean Front
Side	3'	Adjacent to Public Beach
Side	3'	Adjacent to 1412 East Ocean Front
Rear	3'	Opposite front (East Ocean Front)

On behalf of Charles Unsworth, Chairman

By: _____

Bradley Hillgren, Secretary

Attachment No. PC 2

Site Survey

LEGEND

	DESCRIPTION
(123.45)	MEAS. ELEVATIONS
()	REC. BRG. & DIST.
#	BRICK
	WALL
	BUILDING
	LOT LINE
WM	WATER METER
F.F.	FINISH FLOOR
G.F.	GARAGE FLOOR
CONC.	CONCRETE
F.S.	FINISH SURFACE
M.H.	MAN-HOLE
A.C.	ASPHALT
T.G.	TOP-GRADE

R&M SURVEYING INC.

RDN MIEDEMA L.S. 4653
23016 LAKE FOREST DR. #409
LAGUNA HILLS, CA 92653
(949) 858-2924 OFFICE
(949) 858-3438 FAX
RDMSURVEYING@CDX.NET

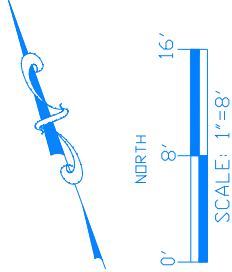
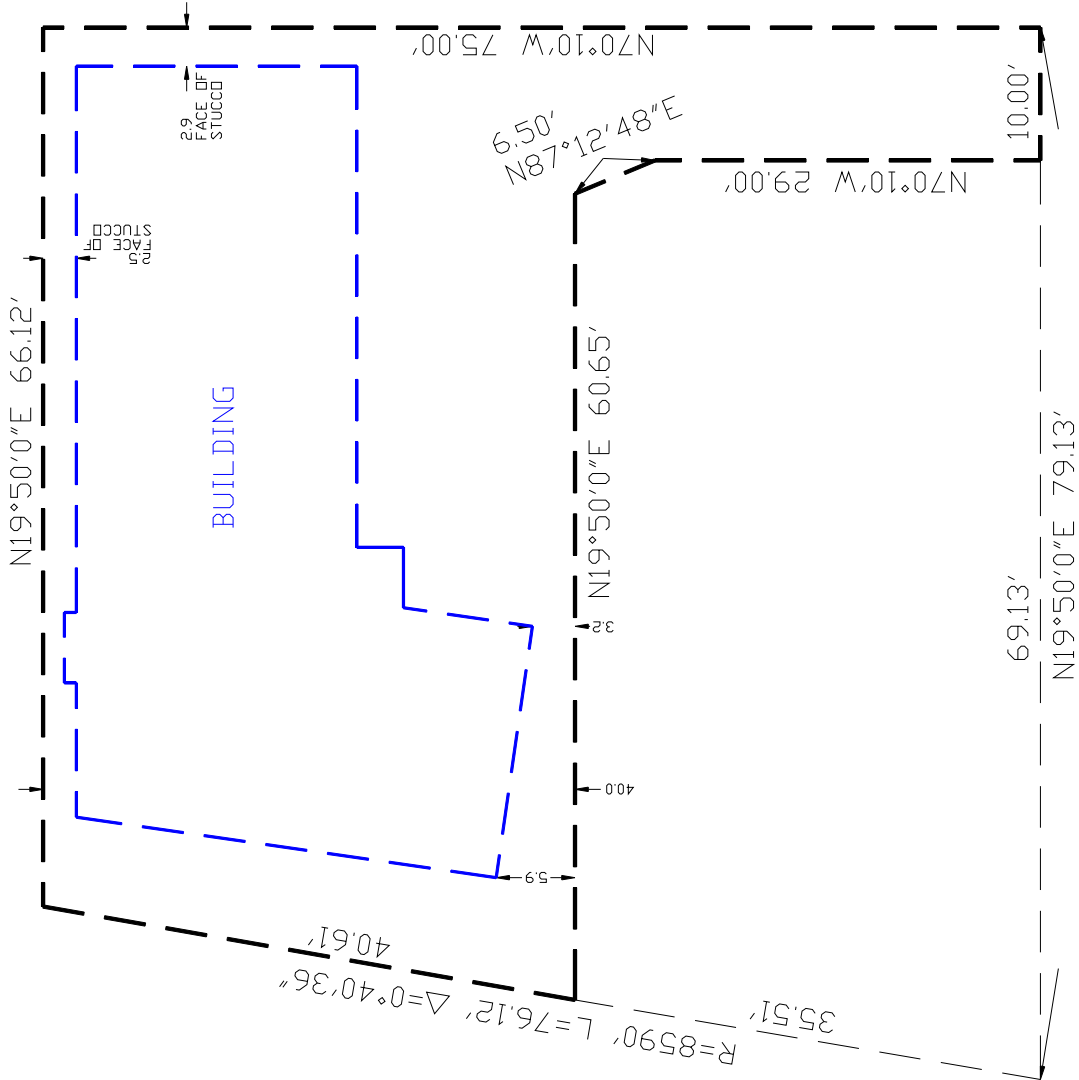
TOPOGRAPHIC SURVEY

LEGAL DESCRIPTION:
Lot 8 and a portion of lot 9, Tract No. 518

ADDRESS OF PROJECT:
1400 E. OCEANFRONT
NEWPORT BEACH, CA

JOB: 50-44
DATE: 8/2/11

OWNER:
Chris Bergandi
425 35th Street, Suite 9
Newport Beach, CA 92663



NOTE: RECORD EASEMENTS ARE NOT PLOTTED IF ANY.

G STREET

25.0

25.0

Attachment No. PC 3

Tract Map No. 518

TRACT NO 518

10 9 9

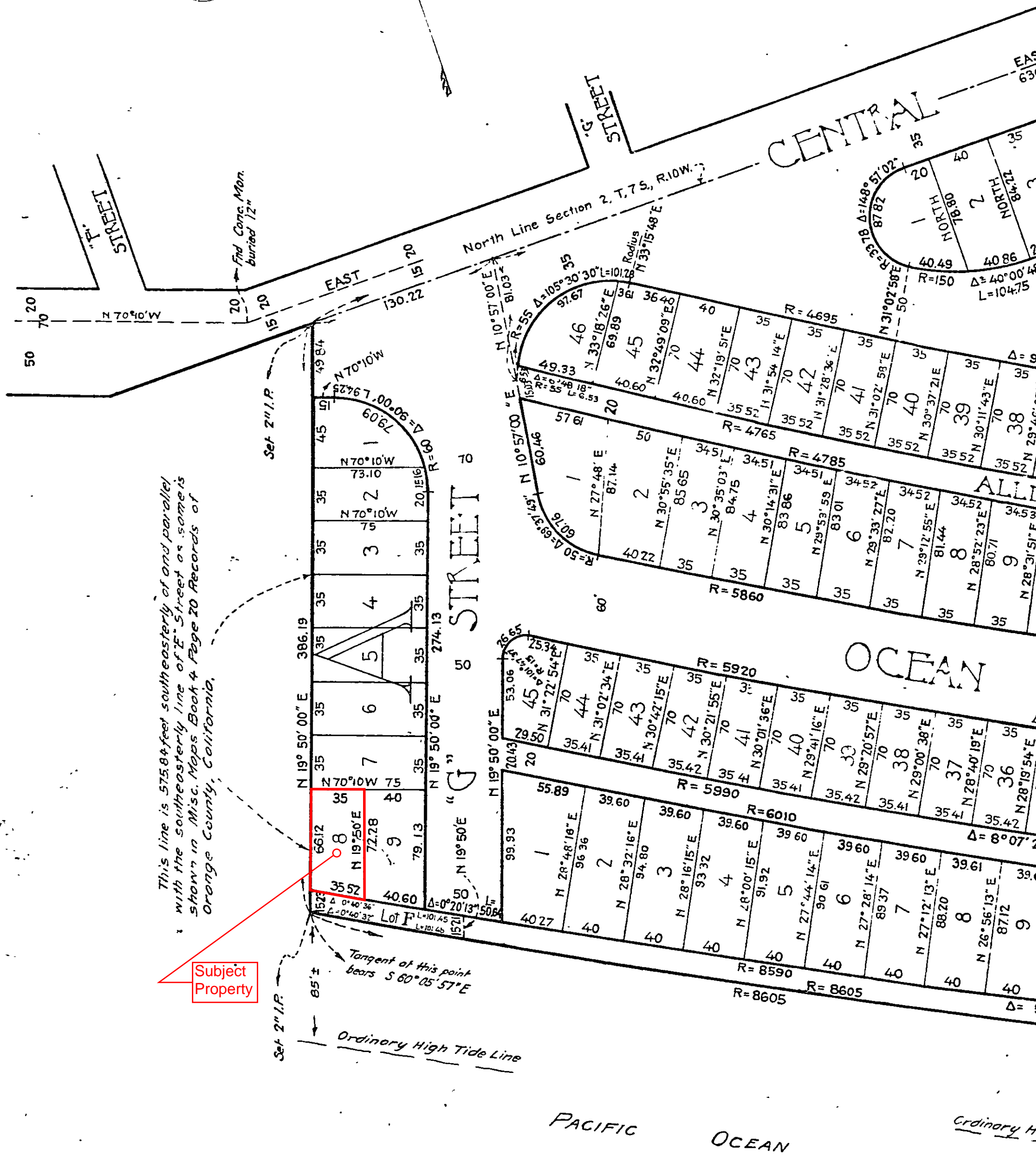
Owner

(Baseline) History

5.00

This line is 575.84 feet southeasterly of and parallel with the southeasterly line of E. Street as same is shown in Misc. Maps Book 4 Page 20 Records of Orange County, California.

Subject Property



Attachment No. PC 4

Resubdivision No. 25

FOSTER & KLEISER CO., Westerly section from the 'Mo-Bo-Tel' and the southerly side of the Coast Hwy. (alt. 101). The location is somewhat easterly of the Highway intersection with Balboa Blvd. C-1H zone.

#210

To convert an existing billboard into a dual 'poster panel' sign. The Committee reported this would undoubtedly make a better looking sign and improve rather than harm the site. This concerns an old existing sign.

Com. Copelin moved the Commission Grant this application, seconded by Com. Rudd, and carried by the following roll call vote:

AYES: Rudd, Longmoor, Copelin

NOES: Keene, Reed

MAY VERTREES, 420 Goldenrod Ave., Corona del Mar
Lots 2, 4, 6, Blk. 434, Tr. CDM, R-2 zone

RESUBS.

To resubdivide a parcel of land of which a portion is occupied by a dwelling.

#24

(Miss Vertrees does not plan on immediate new construction. She would like to have an assurance from the Commission that she is properly representing the acceptable usage for this parcel of land.)

Granted

Com. Reed moved that the Commission recommend the Granting of this application provided two building sites are created from Lots 2, 4, 6. The building sites shall be known as Site No. 1 and Site No. 2. No. 1 shall consist of the southeasterly 40 feet of said Lots 2, 4, 6. No. 2 shall consist of the whole of Lots 2, 4, & 6, except southeasterly 40 ft. In addition this re-sub shall be granted on the CONDITION that the applicant provide public utility easements subject to the approval of location, by the Engineering Dept.

Under Section 9254.33 of Ord. #650, it is also deemed advisable to establish a set-back of 3 feet along 1st Street on Site #1. Motion seconded by Com. Keene, and carried by the following roll call vote, to wit:

ALL AYES

HUGH R. ADAMS

Lots 8 and 9, Blk. A, Tr. 518, R-1 zone.

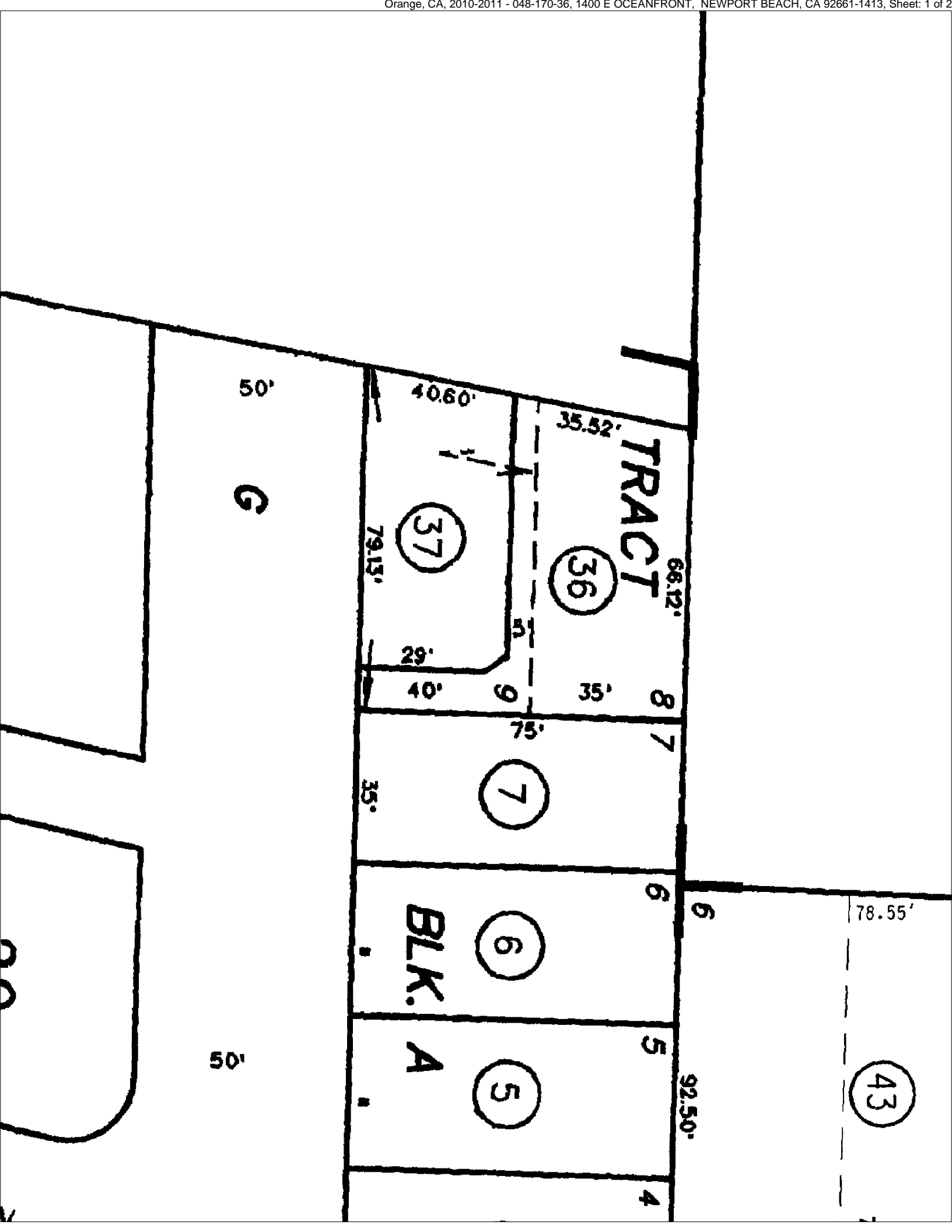
To resubdivide two Ocean Front Building Sites, in order to create an easement of 12 feet for ingress and egress. The applicant is also requesting realignment of property lines. (At present Lot 8 lacks street accessibility.)

#25

Granted

The applicant referred to the inflated real-estate values existing, and the economic hardship he would encounter ~~where~~ he deprived of the privilege of creating two ocean front lots on the described parcel of land. Com. Keene moved the Commission recommend the Granting of this Resubdivision, defining the parcel of land as two building sites No. 1 and No. 2. No 1 shall consist of all of Lot 8 and the northwesterly 5' of Lot 9 as well as the north-easterly 10' of Lot 9. Building Site No. 2 shall consist of all of Lot 9, except the northwesterly 5' thereof and the ~~north~~theasterly 10' hereof. Motion seconded by Com. Reed, and carried by the following roll call vote, to wit:

ALL AYES



Attachment No. PC 5

Portions of Variance No. VA915

VARIANCE APPLICATION
Ordinance No. 635
City of Newport Beach

NO. 915
DATE 10-26-1967

INSTRUCTIONS: (Read Carefully). The Applicant or his legal representative must be present at all public hearings. Fill out this application completely. It must be accompanied by four copies of a plot plan to scale, and with correct dimensions, showing in detail all boundaries, existing buildings, proposed alterations and additions. The Applicant must sign conditions of Variance, if any, within thirty days after granting. Application is not valid until 15 days after date of approval and shall be revoked if not used within eighteen months from date of approval.

1. H. R. and Jane M. Adams
Property Owner Only 1412 East Ocean Front
Address Involved
2. LOT PTN. 9 BLOCK A SECTION - TRACT 518 ZONE R-1
3. DATE OF HEARING Nov. 16, 1967 TIME 8:00 PM.
4. Application is hereby made for a Variance from Section 12 . 12 . 060 -A-B-C to permit:
to establish minimum setbacks as follows:
- FRONT YARD - 10 feet Reduction in REAR YARD
SIDE YARDS - 3 feet each SETBACK FROM 10' to 3'
REAR YARD - 3 feet
5. Hardship Involved: Size, shape and existing required setbacks make it
impracticable to build on the lot

Adjoining lot has been developed with same setbacks.

There are sheets attached to and made a part of this Application. I hereby certify that the foregoing statements, maps, drawing, plans and specifications attached hereto are true and correct. If granted, this Variance will not adversely affect persons residing or working in the neighborhood. I further consent to any permit issued in reliance thereon being null and void in the event they are not true and correct.

x H. R. Adams 995 Plumeria Lane 528-0774
Signature of Owner Home Address Phone

FOR DEPARTMENTAL USE ONLY

PLANNING COMMISSION ACTION

In accord with Section 9106.31 (a)-1-2-3 a Variance is hereby GRANTED the above applicant subject to requirements of all governmental agencies having jurisdiction and subject to the following:

That the applicant pay 50% of the cost of building a sidewalk adjoining
the front of subject property (on Ocean Front).

The undersigned hereby agrees to all the above CONDITIONS.

x Letters of agreement attached.

DATES: Filed 10-26-67 Hearing 11-16-67 Published 11-2-67 Newspaper Ensign

FINDINGS OF PLANNING COMMISSION: Upon a review of the evidence on file and testimony at the hearing the Commission found and determined that under the circumstances of the particular case, the granting of this variance would not be detrimental to the general welfare nor to property or improvements in the neighborhood and, therefore, recommended approval, subject to the above condition.

That Variance be GRANTED - DENIED
on the 16 day of November 19 67

GRANTED - DENIED
on the day of 19

Ray Y. Copelin, Secretary
Newport Beach City Planning Commission

Margery Schrouder, City Clerk
Newport Beach, California

V-915

CITY OF NEWPORT BEACH

November 16, 1967

TO: Planning Commission
FROM: Planning Department
SUBJECT: Variance Application No. 915

Application

The application filed in the name of H. R. and Jane M. Adams requests the establishment of setbacks on a substandard lot in the R-1 District. The proposed setbacks are:

Rear Yard - 3 feet
Side Yards - 3 feet
Front Yard - 10 feet

The required setbacks are presently:

Rear Yard - 5 feet
West Side Yard - 3 feet
East Side Yard - 10 feet on street side
Front Yard - 20 feet

Background

In December 1955 a resubdivision was filed on Lots 8 and 9 of Tract 518 to change the lot lines. The lot lines were relocated and an easement created. This easement provided access to Lot 8 across the rear of Lot 9. The vehicular easement is 10 feet wide. The Planning Commission approved this resubdivision on December 28, 1955. Lot 8 then contained 2768 sq ft. and Lot 9 contained 2650 sq ft. less the easement or 2300 sq.ft.

Subject Property and Surrounding Land Use

The entire area is zoned R-1. Single family dwellings are constructed in 3 directions with the ocean in front of the proposed development.

Developmental Characteristics

The property in question is substandard. The lot contains 2300 sq ft. The proposed setbacks will provide a 1566 sq.ft. building area. The property is without the setbacks that have been established on the adjacent property. The setbacks on the adjacent property are the same as requested by this property owner.

TO: Planning Commission - 2.

Analysis and Recommendation

There is a hardship on the property due to size and lack of established setbacks. The adjacent properties have reduced setbacks established.

In the opinion of the staff, all of the criteria for the grantal of a variance have been met. Therefore approval of this application is recommended.

Respectfully submitted,

Ernest Mayer, Jr.
Planning Director

By Thomas F. Nelson
Thomas F. Nelson
Associate Planner

EM:TFN:hh

Attachments: Vicinity Map
Plot Plan

